

AMENDMENT UNDER 37 C.F.R. § 1.114(c)
U.S. APPLICATION NO. 09/497,515
ATTORNEY DOCKET NO. Q57834

REMARKS

Applicant herein amends the specification to remove a typographical error. No new matter has been added.

Claims 1, 3 and 6-10 have been examined on their merits.

Applicant herein cancels claims 11-20 without prejudice and/or disclaimer.

Applicant herein amends claims 1 and 3 to recite that the numerous pores are substantially formed by only the polymer. Support for the amendment to claims 1 and 3 can be found in Figures 4 and 6.

Applicant herein adds new claims 21-33. New claims 21-33 are fully supported by the application as originally filed, and do not add any new matter. Support for the new claims can be found at, for example, pages 13-15 of the specification. The new claims also read on the elected species of the invention. Entry and consideration of the new claims is requested.

Claims 1, 3, 6-10 and 21-33 are all the claims presently pending in the application.

1. Claims 1, 3, 6 and 10 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Fukuoka *et al.* (U.S. Patent No. 5,723,173). Applicant traverses the § 102(b) rejection of claims 1, 3, 6 and 10 for at least the reasons discussed below.

Amended claim 1 now recites a polymer that does not substantially have an ion-exchange function and that numerous pores are formed only by that polymer. The numerous pores recited in claim 1 are formed only by polymer that does not substantially have an ion-exchange function. In contrast, Fukuoka *et al.* disclose gas channels (7) that the Patent Office considers to be pores

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formed by both solid polymer electrolyte (5) and fluorocarbon polymer (11). *See, e.g.*, Figure 2 of Fukuoka *et al.* The solid polymer electrolyte (5) has an ion-exchange function because the solid polymer without an ion-exchange function cannot have ion conductivity and cannot be an electrolyte. Thus, Fukuoka *et al.* fail to teach or suggest numerous pores formed only by polymer that does not have a substantial ion-exchange function.

Based on the foregoing, Applicant submits that claim 1 is now allowable, and further submits that claims 6 and 10, and new claims 21, are allowable as well, at least by virtue of their dependency from claim 1. Applicant requests that the Patent Office reconsider and withdraw the § 102(b) rejection of claims 1, 6 and 10.

Applicant submits that amended claim 3 is allowable for at least reasons analogous to those discussed above with respect to claim 1, and further submits that claims 6 and 10, and new claims 21 and 22, are allowable as well, at least by virtue of their dependency from claim 3. Applicant requests that the Patent Office reconsider and withdraw the § 102(b) rejection of claims 3, 6 and 10.

With respect to new claims 23-34, Applicant submits that these new claims are allowable over Fukuoka *et al.* due to its silence with respect to the porous polymer being obtained by a phase inversion process.

2. Claims 1, 3 and 6-10 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Fukuoka *et al.* Applicant traverses the § 103(a) rejection of claims 1, 3 and 6-10 for at least the reasons discussed below.

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Amended claim 1 now recites a polymer that does not substantially have an ion-exchange function and that numerous pores are formed only by that polymer. The numerous pores recited in claim 1 are formed only by polymer that does not substantially have an ion-exchange function. In contrast, Fukuoka *et al.* disclose gas channels (7) that the Patent Office considers to be pores formed by both solid polymer electrolyte (5) and fluorocarbon polymer (11). *See, e.g.*, Figure 2 of Fukuoka *et al.* The solid polymer electrolyte (5) has an ion-exchange function because the solid polymer without an ion-exchange function cannot have ion conductivity and cannot be an electrolyte. Thus, Fukuoka *et al.* fail to teach or suggest numerous pores formed only by polymer that does not have a substantial ion-exchange function.

Furthermore, there is no motivation in Fukuoka *et al.* to form numerous pores with only a polymer that does not have a substantial ion-exchange function. As noted above, the Patent Office considers the gas channels (7) to be pores, and the gas channels are formed by both solid polymer electrolyte (5) and fluorocarbon polymer (11). *See, e.g.*, Figure 2 of Fukuoka *et al.*

Based on the foregoing, Applicant submits that claim 1 is now allowable, and further submits that claims 6-10, and new claim 21, are allowable as well, at least by virtue of their dependency from claim 1. Applicant requests that the Patent Office reconsider and withdraw the § 103(a) rejection of claims 1 and 6-10.

Applicant submits that amended claim 3 is allowable for at least reasons analogous to those discussed above with respect to claim 1, and further submits that claims 6-10, and new claims 21 and 22, are allowable as well, at least by virtue of their dependency from claim 3.

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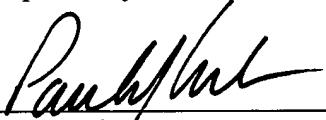
Applicant requests that the Patent Office reconsider and withdraw the § 103(a) rejection of claims 3 and 6-10.

With respect to new claims 23-34, Applicant submits that these new claims are allowable over Fukuoka *et al.* due to its silence with respect to the porous polymer being obtained by a phase inversion process.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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